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UNITED STATES BANKRUPTCY COURT
SAN JOSE, CALIFORNIA

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

LAURA ANN GENS,

DEBTOR,

CASE NO. 13-50106 ASW

Date of Hearing: April 10, 2013.

Time of Hearing: 2:15 pm

Courtroom of Judge Weissbrodt

DECLARATION OF LAURA GENS IN SUPPORT OF DEBTOR'S MEMORANDUM TO IMPOSE A STAY UNDER §362 (c)(4)(b) AS TO CREDITOR WELLS FARGO AND THE PROPERTY

I, Laura Gens, do hereby state on personal knowledge and belief:

1. I am over the age of 18 years and competent to make this declaration.

2. The auction.com website posts a Trustee's sale of the Property on April 26, 2013 by Trustee Cal Western for Wells Fargo.

3. I filed a voluntary petition for bankruptcy as a chapter 11 in case no. 10-55305RN in May 2010. In 2011, I hired an attorney, Bill Lewis, to seek out resolution of the matters with the two secured creditors of which included Wells Fargo on the CA and WI Properties and to file a Plan. Wells Fargo and the other secured creditor were adamant against resolving their respective disputes. A Plan was filed based on a prior plan filed by Mr. Lewis for another of his clients. The Plan contained numerous errors made by Mr. Lewis and it did not use the combined Plan and

Disclosure Statement form. The Court admonished me for not using the form.

4. After my attorney failed to use the Combined Plan/Disclosure form, the Court then filed an order to show cause why the case should not be dismissed. Clearly disappointed with Mr. Lewis performance, I again revisited the limited pool of bankruptcy attorneys that represent small chapter 11 cases, especially after another attorney had been in the case. I immediately hired Mr. MacDonald so he would have at least two months to file a response to the order to show cause. Another sizeable retainer was paid. Mr. MacDonald was to file his appearance (he did not), file a response to the Order to show Cause (he filed no paperwork in response), file a Plan (he did not), and personally attend the hearing for the order (he did so telephonically). The one thing Mr. MacDonald did do is file a status statement which contained incorrect information previously supplied to him in not one, but two multi-hour, in-person meetings. At the hearing on the order to show cause, I was completely caught off guard by Mr. MacDonald's lack of response and lack of attendance when he repeatedly confirmed prior to the hearing that things were ready. The case was dismissed in June 2012 at that hearing when Judge Novack pointed out that Mr. MacDonald failed to file any response.

5. I immediately hired another bankruptcy attorney, Mr. Irion, and again paid a sizeable retainer. The day before he was to file documents on my behalf, Mr. Irion informed me that he was not going to continue representing her because of the "complexity" of the matter and withdrew. With a Trustee's sale on the Property imminent, I was forced to proceed on my own and filed case no. 12-56055 in August 2012. Because of the shocking last minute withdrawal by Mr. Irion and the need to hastily prepare the petition, I made several errors in the Schedules.

6. After filing the petition, I hired Mr. Wolny who was to move to extend the stay and file a Plan. Mr. Wolny was not able to file the necessary documents, but at least helped me in filing a motion to extend the stay. Mr. Wolny was to personally attend the hearing on the motion to extend the stay, but could not. Mr. Wolny did not file the other necessary documents to meet the court's standards for extending the stay. At that hearing, Judge Novack recommended that I proceed in state court. As a result, I voluntarily dismissed the case at that hearing in October 2012.

7. I have discussed the details of my cases at great length with Mr. Stanley Zlotoff for his bankruptcy expertise. I have also discussed her cases against the two secured creditors with Mr. Mike Matthews, a litigator with Carlson Calladine & Peterson of San Francisco. I have not yet formalized the working relationship between the attorneys with the Court.

8. I have four children. All four children were listed as dependents in the prior bankruptcies and I was responsible for their support. Three of the four were in college or just recently graduated. Now two of the children Julia and Eva, have graduated, are working full time, and I no longer supports them. The third child, Henry, is on scholarship attending Notre Dame University and works part time as a research assistant to a professor in a biomedical research laboratory. I now have only one child who is a junior in a public high school for which she is responsible for his support.

9. Since Wells Fargo has refused monthly payments on the secured loan, I have made substantial improvements in the CA Property with those funds since the last bankruptcies to dramatically lower utility costs. At the top of Group Exhibit A is a true and correct copy of the utility bill for the CA Property for February 2012 in the amount of $1120. This was about the monthly average at the time of the last bankruptcy cases. The bills for December 2012, January 2013, and March 2013 are also present in Group Exhibit A and reflect a monthly amount now of about $200. That is a decrease of about 82%. These bills are representative of what the utility bill now is on the CA Property.

10. Since the last bankruptcies, I have been informed that my appeal of the real estate property taxes was finalized by the Santa Clara County Appeal Board and that the taxes of about $26,000 per year on the Property are being reduced by about $4056. That is a reduction of about 16% in her real estate taxes.

11. In the last bankruptcies, my expenses were about $7,000 per month. This can be determined from the operating statements in the last bankruptcies. Due to the haste in which I had to prepare her own schedules when her attorney withdrew the day before the petition was to be filed, I made some errors. Furthermore, the documentation needed was still at the attorney's office. One error was on Schedule J which listed $5800 for mortgage payments. These are

general expenses in fact, because I was not making mortgage payments and Wells Fargo was not accepting mortgage payments from me.

12. The prior monthly operating expenses of $7000 per month excluding mortgage payments are now less than $1000 per month excluding mortgage payments. As detailed above, I no longer have to support three dependent children that were also attending college. Now I have only one dependent child in high a public high school.

13. In the last bankruptcies, my income was about $6,300 per month from my part time work at Starbucks and my art business. This can be determined from the operating statements in the last bankruptcies. Due to the haste in which I had to prepare my own schedules when my attorney withdrew the day before the petition was to be filed, I made some errors. Furthermore, the documentation needed was still at the attorney's office. One error was on Schedule I which listed $9600 as income from her business. In fact, this number includes income from some other family members in the "economic unit" that the U.S. Trustee wanted to detail.

14. I have foregone promotion at Starbucks to keep the minimum working schedule for the health insurance and other benefits while I continue to expand the consulting part of my business. I am a certified Reiki Master with ten years of experience and over ten years of advanced personal training with well-know teachers including the Dali Llama himself. This advanced training not only allows me to perform work on clients, but also to teach and train other practitioners. I am qualified to attune persons at both the first and second levels and also the Master's level. Typical pricing is $15,000 for a 15 to 30 month Masters program (averaging $1,000 per month per student) which typically includes 1-2 personal sessions per month and distance work. The program includes selected readings and homework for the student to perform. There are also different levels of attunement which are more intense, shorter programs typically charging about $2500 over the course of one to three months. I currently has three students in such programs. These training programs alone provide about $2000 gross per month.

15. As stated above, I also have clients. These are both individuals and organizations. Persons, animals, or objects are the subject of clearing sessions. Typically, a two hour session costs $395. I have dozens of individuals and several businesses for the clearing program. Often

individual members of the business or organization become clients as well. These sessions provide about $1800 per month.

16. I have worked with and volunteers at a local community hospital for its patients. I often receive referrals from their program.

17. I am negotiating a retainer agreement with a local retail outlet that has been in business for over two decades selling energy artifacts. I will clear the artifacts on a monthly basis under the retainer agreement. The retailer will also allow me to advertise her services at the outlet.

18. I have also been in contact with a local professional sports team to negotiate a retainer agreement to work at the team facility and with individual members on the team roster. This work includes positive attitude counseling, clearing, and distance work.

19. I have dovetailed my Reiki work into her spiritual, abstract art website at ladempsey.com . The artwork is prices in the range of $2500 to $50,000 per piece. The canvas sizes range from about 2 foot square to as large as 10 feet. Pictures are available at my website. Further explanation of the Reiki work and my credentials are available at the website. Insurance is about $100 per month for the Reiki business. The Reiki business has been grossing about $6200 with the current students and clients.

20. A profit and loss statement for would be quite simple. Except for the $100 per year insurance payment for her business, nearly all expenses are included in the CA Property expenses or otherwise covered in Schedule J such as auto expenses. I run my business out of my home. So it is income producing.

21. The WI Property is actually income producing. Timothy Gens uses the WI Property for business purposes in the Madison, WI and Chicago IL and because of its close proximity to his elderly parents. Should the need arise; the WI Property can be rented to a third party. Now that his father has passed away and his mother has recently completed chemotherapy treatments, he can readily make other arrangements and rent the WI Property for about $2250 per month.

22. The CA Property has 1000 square foot studio which is free-standing. I house my business mostly in the studio. I have converted the 3-car garage attached to the residence at the

CA Property into living space with insulated walls, heat, water, and new flooring. I plan to move from the studio to the former garage and renovate the studio as living space for rent to a third party. The rent on a 1000 sq. ft. studio with all utilities in the palo alto school district is about $3400 per month.

23. I have two unsecured creditors (an unsecured loan and a credit card issued to me) totaling about $5000. Both creditors are impaired and both have verbally agreed to confirm the Plan and its payment of their debts.

24. After the last bankruptcy and pursuant to Judge Novack's comments, I filed a skeleton complaint in state court, posted a bond, and obtained an injunction. Wells Fargo again removed the state court action, this time based on diversity jurisdiction as case no. 5:12-cv-05947-EJD. Wells Fargo claims it is South Dakota Corporation and its Trustee, Cal-Western, a California company, is irrelevant to the litigation. So Wells Fargo would have the Court believe that the location of its headquarters in California and the Trustee's citizenship should not be counted towards complete diversity even though the trustee violated California state statutes on numerous occasions. I have filed a motion to remand which was scheduled to be heard on March 29, 2013. However, the motion was recently taken off calendar and I is anxious for that motion to proceed.

25. Faced with another impending trustee's sale by Wells Fargo, I filed this bankruptcy case and a motion to impose a stay. The sale, however, was scheduled before the motion for a stay could be heard. In order to obtain an injunction against the intervening trustee's sale, I was forced to hastily file an adversary proceeding against Wells Fargo. Shortly thereafter, Wells Fargo filed a notice that it would postpone any sale in favor of a hearing on my motion to impose a stay.

26. In the prior bankruptcy case 10-55305RN, I objected to the claim filed by Wells Fargo. The claim filed by Wells Fargo was indefinite for a number of reasons including, but not limited to: the starting figures for the claim (which are way off with the pre-payments made by I) start at the end of 2008 which is more than two years after the loan started 2006; the claim summarizes expenses without itemizing when the alleged expenses were made and to whom;

there are escrow and suspense accounts not provided for under the mortgage documents; real estate taxes allegedly paid were, in fact, not paid.

27. Wells Fargo has never provided the evidence or an accounting to justify what they say is owed. I served Wells Fargo with documents requests in August 2011 and again in December 2011. The Court had to order Wells Fargo to produce documents. The discovery requests ALL documents that in any way related to the mortgage, the note, or me in any way. ALL of the documents eventually produced totaled about 1600 pages. Simply put, there are NO records from the start of the loan in early 2006 until late 2008. None. For 2009 through 2012, there are no accounting records, just compilations of some other documents. What few, disjointed records there are report the siphoning of payments made by plaintiff to illegal accounts, e.g. something identified as a "suspense account", which is not legal under the terms of the mortgage. There are also illegal charges such as for real estate taxes which were in fact not paid to the county tax collector, payments for property insurance when in fact plaintiff had property insurance in place, charges for over seventeen real estate appraisals nearly every other month for no apparent reason, etc.

28. Although Wells Fargo produced about 1600 pages of documents, the size of this number has done little to support its claim and provide and a detailed accounting in this matter. Roughly 90% of the 1600 documents can be summarized in four groups:

1. The filings of bankruptcy action 10-55305 RN which are publicly available;
2. The filings in the original state court action which was filed by I to obtain a temporary injunction to stay the sheriff's sale scheduled by Wells Fargo and which are also publicly available;
3. A dozen copies of the note and deed, but not the requested originals; and
4. About 17 real estate appraisals of the property which secures the Wells Fargo claim, each appraisal being at least 30 pages long and dated about 2-3 months during the pendency of the bankruptcy action with the latest in March of 2012, the time of the document production.

So, at least 90% of the Wells Fargo production is publicly available documents and repetitive nonsense which does not even remotely support their claim or provide the details needed to resolve the accounting issues raised by plaintiff.

29. There were no records for the years 2006 through the end of 2008. There were no accounting records for any year. Wells Fargo never produced the original note and deed for inspection. There were many examples where there are Pages from documents that were purposefully removed by Wells Fargo.

30. I tendered the entire amount of the loan on the CA Property along with a written demand for an accounting by Certified Mail. I obtaining financing from not one, but two qualified lenders: The O'Donnell Financial Group and The Whalen Family Trust. Attached as Exhibit C is a true and correct first page of the certified appraisal performed by the O'Donnell Group.

31. The written demand called for an accounting and the date of that demand was prior to the notice of default and notice of trustee's sale on the CA Property as required by California Civil Code §2943(b)(1) et al. Creditor never complied with the demand.

32. The new sale must comply with these sections because the prior sale was never properly postponed in accordance with California Code §2924(g). At the prior trustee sales, Wells Fargo failed to make any announcement of the postponement of that sale and failed to announce a new date and time as required by California Code §2924(g) et al.

33. In July 2008 the Property was independently appraised at a value of $3,300,000. See Exhibit C.

I declare under penalty of perjury under the law of the State of California that the foregoing is true and correct.

March 11, 2013

[signature]

Laura Gens